

REMARKS/ARGUMENTS

Reconsideration of this application is requested. Claims 1-14 and 20-27 are in the case.

I. THE 35 U.S.C. §112, SECOND PARAGRAPH, REJECTION

Claims 1-14 and 20-27 stand rejected under 35 U.S.C. §112, second paragraph, as allegedly indefinite for the reasons detailed on page 2 of the Action. In particular, the Examiner has objected to the reference to acyl or alkoxy groups being unsaturated. However, a person of ordinary skill in this art would readily understand a reference to an alkyl or alkoxy group being unsaturated. Examples of such groups might be 1-butenyl or 1-butenyloxy. Moreover, it is well established that an applicant can act as his or her own lexicographer as long as the meaning ascribed to the term is not repugnant to the term's well known usage. In the present case, the applicant has chosen to define alkyl groups to include the possibility of being unsaturated (see page 9, line 6).

In light of the above, it is believed that there is nothing repugnant about the reference to acyl or alkoxy groups as being unsaturated. This is confirmed by the use of such language in other granted U.S. patents, including for example U.S. patents 6,559,143, 6,255,301 and 6,407,114 (partial copies attached with relevant portions highlighted). The claims are clearly not indefinite in this regard and would be readily understood by one of ordinary skill in this art.

Withdrawal of the outstanding 35 U.S.C. §112, second paragraph, rejection is now believed to be in order. Such action is respectfully requested.

II. THE 35 U.S.C. §112, FIRST AND SECOND PARAGRAPHS, REJECTIONS

Claims 1-14 and 20-27 stand rejected under 35 U.S.C. §112, paragraphs 1 and 2, for the reasons detailed beginning on page 3 of the outstanding Action. That rejection is respectfully traversed.

The Examiner objects that the claimed compounds, when in quaternary ammonium form, are not enabled because there is no minus charge or no counterion. It is respectfully submitted that one of ordinary skill would readily understand how to prepare compounds of the invention in quaternary ammonium form. The cited *Mayhew* decision is inapposite as the nature of the anion in this aspect of the claimed invention is not "essential". The cited *Zletz* decision is inapposite as the claims in this case are ".,.,clear, correct and unambiguous."

By way of further clarification, claim 1 has been amended to specify "...quaternary ammonium salt derivative thereof". As the Examiner has not objected to the expression "pharmaceutical acceptable salts", it is believed this amendment overcomes the rejection. Basis appears at, for example, page 8, lines 1-3. No new matter is entered and no new issues are raised.

There is no lack of enablement with respect to the quaternary derivatives, and any experimentation that one of ordinary skill might have to undertake would not be undue. Withdrawal of the lack of enablement rejection is respectfully requested.

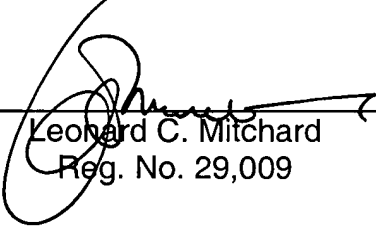
Allowance of the application is respectfully requested.

BJORE et al
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Respectfully submitted,

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By: _____


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Attachments: portions of U.S. patents 6,559,143, 6,255,301 and 6,407,114 with
highlighted sections